

Remarks/Arguments

Claims 1, 2, 8-10, 26 and 27 were pending in the application. With this amendment, claim 26 has been canceled and claims 28 and 29 have been added. Claims 1, 2, 8-10 and 27-29 are therefore pending in the application.

Support for the amendment to claim 1 and new claim 29 can be found, for example, in the originally filed specification, at page 3, lines 31-32. Support for new claim 28 can be found, for example, in the originally filed specification in Examples 1 and 2, where anionic surfactants such as stearic acid and glyceryl stearate citrate, respectively, are exemplified. No new matter has been added.

Claims 1, 2, 8-10 and 26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 4,085,265 ("Seib"). Claims 1, 2, 8-10, 26 and 27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,221,389 ("Cannell") in view of Seib. Applicants respectfully submit that the currently pending claims, as amended, are patentable over these cited references for at least the following reasons.

Rejection of Claims 1, 2, 8-10 and 26 under 35 U.S.C. § 103(a) based on Seib

Applicants' invention, as recited in independent claim 1, as amended, is directed to a personal care composition comprising a water-proofing effective amount of a water dispersible emulsion polymerized acrylate copolymer. As discussed in Applicants' specification, the acrylate copolymer may be in the form of an emulsion. (See specification, at page 3, lines 31-32).

Claims 1, 2, 8-10 and 26 stand rejected as obvious over Seib. Seib is directed to a process for preparing acrylate copolymers by copolymerizing 45 to 80% by weight of methyl methacrylate, 10 to 30% by weight of one or more C₃₋₁₂ alkyl acrylates, and 10 to 25% of acrylic acid and/or methacrylic acid (col. 1, lines 42-54). According to Seib, its polymerization process "may be carried out in the absence of solvents, i.e. as a mass polymerization, or in the presence of solvents" (Seib at col. 2, lines 38-44). A polymer melt is obtained after polymerization. (Seib at col. 2, lines 45-46).

Contrary to the disclosure of Seib, Applicants' invention includes a water dispersible emulsion polymerized acrylate copolymer. Seib does not disclose this feature but rather discloses, for example, solution polymerization of its polymer to provide a pure melt polymer. Although Seib does disclose that polymerization may be carried out in the absence of solvents, Seib discloses mass polymerization as the type of solvent-free polymerization to which it refers. Accordingly, Seib is silent with respect to emulsion polymerization. Further, one of ordinary skill in the art would have understood that emulsion polymerization is distinguishable from a solution polymerization and mass (or bulk) polymerization. The respective, significantly different processes afford significantly different polymer compositions. Consequently, because Seib neither discloses nor suggests an emulsion polymerized acrylate copolymer, as recited in claim 1, claim 1 is patentable over Seib.

In addition, claims 2, 8-10 and 26 are also patentable over Seib for at least the reasons that claim 1, from which they depend, is patentable, but may be separately patentable for additional reasons as well.

Rejection of Claims 1, 2, 8-10, 26 and 27 under 35 U.S.C. § 103(a) based on Cannell in view Seib

The Office rejects claims 1, 2, 8-10, 26 and 27 as obvious over Cannell in view of Seib. Cannell discloses aqueous carrier systems based on organic phospholipids capable of forming bilayers in aqueous solutions, nonionic surfactants, and amphoteric surfactants, wherein the carrier systems allow water-insoluble polymers to be incorporated into aqueous solutions (col. 1, lines 12-18). The compositions of Cannell include at least one organic phospholipid, at least one amphoteric surfactant and at least one nonionic surfactant (col. 2, lines 50-56). The Office asserts that Cannell teaches water-insoluble polymers that are unneutralized or partially neutralized. (Office Action, page 5). Cannell appears to be silent, however, with respect to the feature of a water dispersible acrylate emulsion polymerized copolymer. Accordingly, Applicants' invention, as recited in claim 1, is distinguishable over Cannell. Further, as note above, Seib does not make up for the deficiency of Cannell in this regard. Applicants' submit,

therefore, that claim 1 is patentable over the combination of Seib and Cannell for at least this reason.

Claims 2, 8-10, 26 and 27 are also patentable over Cannell in view of Seib for at least the reasons that claim 1, from which they depend, is patentable, but may be separately patentable for additional reasons as well.

New Claim 28 and 29

New claim 28 is directed to the composition of claim 1, further comprising an anionic surfactant. New claim 29 is directed to the composition of claim 1, wherein the acrylate copolymer is in the form of a 45% polymer-in-water emulsion. Applicants submit that new claims 28 and 29 are patentable over Seib, either alone or in combination with Cannell for at least the reasons that claim 1 is patentable over these references, but each may be separately patentable for additional reasons as well.

Conclusion

In view of the amendments and arguments set forth above, Applicants respectfully submit that the pending application is in condition for allowance. Notice to this effect is earnestly solicited.

Respectfully submitted,



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